IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 04.04.2007

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Petition No.1796 of 2007

S.M.Deenadayalan .. Petitioner

Vs.

1.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
Gandhi Irwin Road, Egmore,
Chennai-600 008.

2.The Executive Officer,
Madhavaram Municipal Township,
Madhavaram, Chennai-600 060.

3.Kamachi

4.Senthil Kumar

5.Maheswari .. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing respondents 1 and 2 herein jointly and severally to take action against respondents 3 to 5 as per development law for their illegal and unlawful construction in the property as Plot No.12A and morefully described in the schedule to the writ petition and demolish the same in accordance with law in the presence of the petitioner after due notice to him.

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For Petitioner : Mr.N.G.R.Prasad for
Mr.M.S.Mani
For 1st Respondent : Mr.J.Ravindran
For 2nd respondent : Mr.J.Rajakalifulla, G.P.,
For respondents 3 to 5 : No appearance

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ORDER

(Order of the Court was delivered by P. SATHASIVAM, J.)

The petitioner has approached this Court to issue a Writ of Mandamus directing respondents 1 and 2 to take action against respondents 3 to 5 in respect of unlawful construction put up in the property bearing Plot No.12A and demolish the same in accordance with law.

2. Pursuant to the order of this Court, the second respondent-the Commissioner, Madhavaram Municipality, has filed a counter affidavit, wherein it is stated that they have already initiated action under the provisions of the Tamil Nadu District Municipalities Act, 1920 and necessary further steps will be taken. The following information in paragraphs 4, 5 and 6 are relevant.

> "4.With regard to averments in para 3 of the affidavit, it is submitted that the order was received on 18.02.1999 and without making any delay, a notice for demolition was issued to demolish the extended and deviated portion of construction in Plot No.7A. The pucca construction in Plot No.12-A was totally demolished as directed by this Hon'ble Court. The partial construction in Plot No.12A is a small hut and not a pucca construction, put up by a person belonging to the below poverty line and it is a temporary one. It is false to allege that the plot No.12A belongs to the petitioner.
>
> 5.With regard to paras 4 and 5 of the affidavit, it is submitted that there was proper action taken by this respondent within the stipulated time. The action taken by this respondent has been informed to the petitioner vide letter No.EN3/257999/98. In the meanwhile the Government of Tamil Nadu have amended the Section 113 (1) of the Town & Country Planning Act and issued an order in G.O.Ms.No.76, H & AU Department dated 27.02.1998 to regularize the unauthorised construction under a voluntary scheme of regularisation. Therefore, a letter was sent on 03.05.99 to the fourth respondent by the first respondent. Since the fourth respondent has not turned up in time for availing this facility the construction was demolished by this respondent on 13.07.99.
>
> 6. With regard to paras 6 and 7 of the affidavit, it is submitted that the notice under Sections 199, 209 and 216(1)(3) of Tamil Nadu District Municipalities Act, 1920, was served for stop work construction without getting proper prior permission from the concerned statutory authority and the demolition action was taken up on deviated portion of the construction. This respondent has taken proper steps to ensure that the

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direction given by Hon'ble Court has been implemented. The sincere effort were taken regularly and periodically by giving proper notice to the fourth respondent for the regularisation of the unauthorised construction under Voluntary Scheme Regularisation and also after the lapse of time. The fourth respondent has not turned up for availing the said facility and the action was taken to demolish the unauthorised construction."

3. In view of the steps taken and the information furnished by the Commissioner, Madhavaram Municipality, no further direction is required, except permitting the said authority to pursue the same in accordance with law. It is relevant to mention that though respondents 3 to 5 were duly served notice privately at the instance of the learned counsel for the petitioner and acknowledged the same as early as on 10.02.2007, no steps have been taken by them to contest the same by engaging the counsel.

4. In view of the same and in the light of the information furnished by the second respondent viz., Commissioner, Madhavaram Municipality, that necessary steps have already been taken and they are also pursuing in accordance with law, as observed earlier, the writ petition is closed with a direction to the second respondent to pursue the same in accordance with law. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

raa

To

1.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
Gandhi Irwin Road, Egmore,
Chennai-600 008.

2.The Executive Officer,
Madhavaram Municipal Township,
Madhavaram, Chennai-600 060.

2 cc To M/S.M.S.Mani, Advocate, SR.21475.

W.P.No.1796 of 2007

AVM(CO)
RVL 13.04.2007

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